

FILED
Date _____
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Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 2167*

House Bill No. 2260

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "Victim and Citizen Criminal Apprehension and Protection Act of 1998".

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 11, Part 6, is amended by adding the following as a new section 39-11-622:

Section 39-11-622.

(a) In addition to the justification of self-defense set out in Tennessee Code Annotated, Section 39-11-611, and notwithstanding the provisions of Tennessee Code Annotated, Section 39-11-621, it is an affirmative defense to criminal prosecution, which must be proven by a preponderance of the evidence, that a private citizen's threat to use or use of force, including deadly force, was to apprehend a person who was committing or had committed first or second degree murder, attempt to commit first or second degree murder, aggravated robbery, especially aggravated robbery, rape, aggravated rape, or rape of a child and the citizen used such force:

(1) While the defendant was on the same property where the offense was committed or attempted to be committed or on any public property adjoining such property; and

(2) During or in fresh pursuit of the person after commission or attempted commission of the offense.

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(b) It is also an affirmative defense to criminal prosecution, which must be proven by a preponderance of the evidence, that the threat to use or use of force, including deadly force, by a private citizen present in a motor vehicle was against a person whom one reasonably believed was attempting to use unlawful force against such citizen while committing or attempting to commit the offense of carjacking.

(c) Any private citizen asserting the affirmative defenses set out in subsection (a) or (b) is presumed to have been put in reasonable fear of imminent peril of death or serious bodily harm to self or others by the conduct of the offender and either affirmative defense may be asserted even though the person using such force does not retreat from the encounter.

(d) Any private citizen who successfully asserts the affirmative defense authorized by subsection (a) or (b) shall be absolutely immune from actual or punitive damages resulting from property damage, injury or death either accidentally or intentionally inflicted by such citizen upon the person or persons who committed or attempted to commit one or more of the enumerated offenses.

SECTION 3. This act shall take effect on July 1, 1998, the public welfare requiring it.

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